

R277. Education, Administration.

R277-417. Prohibiting LEAs and Third Party Providers from Offering Incentives or Reimbursements for Enrollment or Participation.

R277-417-[2]1. Authority and Purpose.

~~[A.](1)~~ This rule is authorized ~~[under]~~by:

~~(a)~~ Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

~~(b)~~ ~~[by]~~Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

~~[B.](2)~~ The purpose of this rule is to provide standards and procedures for prohibiting LEAs and third party providers from offering incentives for student enrollment.

R277-417-[4]2. Definitions.

~~[A. "Board" means the Utah State Board of Education.]~~

~~[B.](1)~~ "Incentive" means one of the following given to a student or to the student's parent or guardian by an LEA or by a third party provider as a condition of the student's enrollment in an LEA or specific program for any length of time, during any school year:

~~(1)a)~~ money greater than \$10; or

~~(2)b)~~ an item of value greater than \$10.

~~[C. "Individualized Education Program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Utah Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).]~~

~~[D. "LEA" or "local education agency" means a school district or charter school.]~~

~~(2)~~ "Program" means a program within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

~~[E.](1)3)a)~~ "Reimbursement" means the payment of money or provision of other item of value greater than \$10 offered as payment or compensation to a student or to a parent or guardian for:

~~(a)i)~~ a student's enrollment in an LEA; or

~~(b)ii)~~ a student's participation in an LEA's program.

~~(2)b)~~ "Reimbursement" does not include a reimbursement paid by an LEA to a student, parent or guardian, for an expenditure incurred by the student, parent or guardian on behalf of the LEA if:

~~(a)i)~~ the expenditure is for an item that will be the property of the LEA; and

~~(b)ii)~~ the expenditure was authorized by the LEA.

~~[F.](4)~~ "Section 504 accommodation plan" required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

~~[G.](5)~~ "Third party provider" means a third party who provides educational services on behalf of an LEA.

R277-417-3. LEA and Third Party Provider Use of Public Funds for Incentives and Reimbursements.

~~[A.](1)~~ Except as provided in ~~[R277-417-3B]~~Subsection (3), an LEA or a third party provider may not use public funds, as defined under Subsection 51-7-3(26), to provide the

following to a student, parent or guardian, individual, or group of individuals:

- ~~([1]a)~~ an incentive for a student's:
- ~~([a]i)~~ enrollment in an LEA; or
- ~~([b]ii)~~ participation in an LEA's program; or
- ~~([2]b)~~ a referral bonus for a student's:
- ~~([a]i)~~ enrollment in an LEA; or
- ~~([b]ii)~~ participation in an LEA's program.

~~[B. An LEA or third party provider may use public funds to provide an incentive to a student or the student's parent or guardian if the incentive is:~~

- ~~—— (1) provided to all students enrolled in the LEA; and~~
- ~~—— (2) part of a school uniform used by the LEA.]~~

~~[C.](2) Except as provided in [R277-417-3D]Subsection (3), an LEA or third party provider may not use public funds to provide a reimbursement to a student or the student's parent or guardian for:~~

- ~~([1]a)~~ curriculum selected by a parent;
 - ~~([2]b)~~ instruction not provided by the LEA;
 - ~~([3]c)~~ private lessons or classes not managed or facilitated by the LEA;
 - ~~([4]d)~~ technology devices selected by a parent; or
 - ~~([5]e)~~ other educational expense selected by a parent.
- ~~(3) An LEA may use public funds to provide:~~

~~(a) uniforms, technology devices, curriculum, materials and supplies, or instructional services to a student if the uniforms, technology devices, curriculum, materials and supplies, or instructional services are:~~

- ~~(i) available to all students enrolled in the LEA or program within the LEA; or~~
- ~~(ii) authorized by the student's college and career readiness plan, IEP, or 504 accommodation plan; or~~

~~(b) internet access for instructional purposes to a student:~~

- ~~(i) in kindergarten through grade 6; or~~
- ~~(ii) in grade 7 through grade 12 if:~~

~~(A) the internet access is provided in accordance with the fee waiver policy requirements of Section R277-407-6; or~~

~~(B) failure to provide the internet access will cause economic hardship on the student or parent.~~

~~[D. An LEA or third party provider may use public funds to provide a reimbursement to a student or the student's parent or guardian if:~~

~~—— (1) the reimbursement is required to be paid or provided pursuant to an IEP or Section 504 accommodation plan that is approved by the LEA;~~

~~—— (2) for a student in Kindergarten through grade 6, the reimbursement is provided to a student's parent or guardian for internet accessibility; or~~

~~—— (3) for a student in grade 7 through grade 12:~~

~~—— (a) the reimbursement is provided to a student or student's parent or guardian for internet access in accordance with the fee waiver policy requirements of R277-407-6; and~~

~~—— (b) failure to provide the reimbursement described in R277-417-3D(3)(a) will cause economic hardship.]~~

~~[E.](4) An LEA or third party provider shall ensure that [an item]equipment purchased[, rented,] or leased by the LEA or third party provider remains the property of the LEA and is subject to the LEA's asset policies if:~~

(~~[1]~~a) the LEA or third party provider purchases ~~[an item]~~equipment; and
(~~[2]~~b) provides the ~~[item]~~equipment to a student or to the student's parent or guardian.

~~[F:]~~(5) An LEA shall establish monitoring procedures to ensure that a third party provider who provides educational services to a student on behalf of the LEA complies with the provisions of ~~[R277-417]~~this rule.

~~[G:]~~(6) The Board or the Superintendent may require an LEA to repay public funds to the Superintendent if:

(~~[1]~~a) an LEA or an LEA's third party provider fails to comply with the provisions of this ~~[R277-417]~~rule; and

(~~[2]~~b) the repayment is made in accordance with the procedures established in Rule R277-114.

KEY: student, enrollment, incentives

Date of Enactment or Last Substantive Amendment: July 8, 2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3)